



ZACHARY W. CARTER
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007

PAUL H. JOHNSON
phone: (212) 356-2656
fax: (212) 356-3509
pajohnso@law.nyc.gov

October 13, 2017

VIA ECF

Honorable Cheryl L. Pollak
United States Magistrate Judge
United States District Court
for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Martinez v. City of New York, et al.
16-CV-0079 (AMD) (CLP)

Your Honor:

I am the Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department assigned to represent defendants in the above-referenced matter. Defendants write in response to plaintiff's October 12, 2017 letter regarding the production of documents in this matter. Defendants state that they have diligently produced documents as they have been obtained.

1. **CRV Reports:** Plaintiff states that defendants "only" produced six pages of CRV reports, which contain detailed information about the location of Lt. Weitzman and the officers under his command on the night in question. Defendants have produced all documents in its possession regarding Lt. Weitzman's CRV shift, which indicates he was in Manhattan on January 22, 2015 and did not return to the precinct until the early morning hours of January 23, 2015 after Defendant Sgt. Jason Forgione's shift ended. Therefore defendants could not have assaulted plaintiff because they were never in the precinct at the same time, had no involvement in plaintiff's arrest or prosecution, did not participate in any investigation into plaintiff's crimes and did not participate in the execution of a search warrant of plaintiff's apartment. In fact, as the evidence clearly shows, Lt. Weitzman was involved in critical counterterrorism work in Manhattan on the date of the incident.
2. **Overtime Records for Lt. Wietzman:** Defendants have produced all the overtime reports in its possession regarding Lt. Weitzman. Defendants have produced an overtime report for January 22, 2015 showing that defendant Weitzman received six hours of overtime on that date. Further, the Command Log clearly states that on the

date in question Lt. Weitzman received six hours of overtime for work in the city's counterterrorism unit on the same date. These records confirm testimony given by Lt. Weitzman that he received six hours of overtime for working in the counterterrorism unit.

3. **Prisoner Movement Slip:** The New York City Police Department is preparing an affidavit to certify that this document has not been located. In order to prepare the affidavit the legal department must certify with their records custodian that the document does not exist. Defendants also state that the information in the Prisoner Movement Slip is identical to the information in the Online Prisoner Arraignment form produced in defendants' initial disclosures on April 16, 2016 at Bates Stamp Nos. DEF000005 through DEF000006. The Online prisoner arraignment form tracks a prisoner's movements between arrest and arraignment. As such, the prisoner movement slip will provide no new or additional information.
4. **Records of Live Scan Electronic Fingerprint Machine:** Upon information and belief any possible records of the Live Scan Electronic Fingerprint Machine, if any exist, are not within the custody and control of the City of New York, but are instead kept by State of New York. The New York City Police Department is preparing an affidavit regarding this fact.
5. **DD5 and Buy Reports:** Defendants have not been able to locate any DD5 or Buy Reports. Defendants performed a diligent search for the records. The New York City Police Department is currently confirming this information with their records custodians.

Based on the foregoing, defendants submit they have complied with their discovery obligations pursuant to the Court Order. Thank you for your consideration of this matter.

Respectfully submitted,



Paul H. Johnson
Assistant Corporation Counsel
Special Federal Litigation Division

VIA ECF

Baree N. Fett, Esq.
Attorney for Plaintiff
305 Broadway, 14th Floor
New York, New York 10007